NOTES OF CASES.

Telephone—Long Distance Message—Liability of Employer.—The first case involving the liability for toll of a subscriber for permitting a nonsubscriber to use his telephone for long distance messages is the Tennessee case of Cumberland Teleph. & Teleg. Co. *v.* Southern R. Co., 45 L. R. A. (N. S.) 990, 156 S. W. 853, which holds an employer is not, although he permits his employees to have access to his telephone, personally liable for long distance messages sent by them concerning their personal affairs.

Evidence of Habit.—What is the rule in regard to one's habit to do or not to do a particular thing as evidence of whether the thing was done? In Chabott *v.* Grand Trunk Railway Company, 88 Atlantic Reporter, 995, plaintiff was run over and killed by defendant's train. He was walking in the center of the track at the time, and the question subsequently arose as to whether he had used due care to look and listen for the approach of cars. To support this contention, it was sought to introduce in evidence his habit to look and listen under such circumstances. The Supreme Court of New Hampshire, in disposing of the question, said that, while it is not admissible to show general carefulness, yet "evidence of this character has been admitted to show whether the person did or did not do a particular act at the time in question upon the ground that a person is more apt to do a thing in the manner in which he was in the habit of doing it."

Abatement of a Fence as a Nuisance.—The charter of a city in West Virginia provides that the council thereof shall have the power "to regulate the making of division fences and party walls by the owners of adjoining and adjacent premises and lots; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive, or unwholesome; and to abate by summary proceedings whatever in the opinion of the council is a nuisance." Plaintiff, a property owner in said city, constructed a fence which the city sought to have removed as being a nuisance; hence suit was brought by the owner to restrain such action. The West Virginia Supreme Court of Appeals held that as the city had not previously enacted an ordinance providing what acts or conditions should constitute a nuisance, according to the above provisions of the charter, and as the fence was not a nuisance per se, the city was in no position to have it removed. Donohue *v.* Fredlock, 79 Southeastern Reporter 736.—National Corporation Reporter.

Translation of Foreign Wills.—Testator, a resident of France, left a will in English, purporting to dispose of personal property only.